

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.1421 OF 1988

Mahadeo Tukaram Patil & Ors. ...Appellants
Vs.
The State of Maharashtra ...Respondent

Mr G.S. Godbole for the Appellants.
Mr K.K. Tated, A.G.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATE : APRIL 25, 2006.

JUDGMENT:

1. Heard Shri Godbole appearing for the Appellants and Shri Tated, learned A.G.P. appearing for the Respondent. The challenge in this Appeal is to the judgment and award dated 30th January, 1988 passed by the learned Civil Judge, Senior Division, Alibag in a reference under section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as said Act). The acquisition relates to a plot of land at village Kamothe, Taluka Panvel, District Raigad. The land was notified under section 4 of the said Act on 03rd February, 1970 for the public purpose of development of satellite city of Navi Mumbai. The award under section 11 of the said Act was made on 24th June, 1986. The Land Acquisition Officer offered compensation at the rates of Rs.3/- per sq. meter and Rs.3.50/- per sq. meter. The Reference Court has

enhanced the market value to Rs.10/- per sq. meter.

2. Reliance is placed on decision of Division Bench of this Court in the case of Nama Padu Hudar & Ors. Vs. State of Maharashtra (First Appeal No.754 of 1986) and other connected Appeals. The Division Bench by its decision dated 25th and 26th February, 1993 decided group of Appeals arising out of awards made under section 18 of the said Act pertaining to lands acquired situated at villages Panvel and Kamothe. Acquisition of lands which were subject matter of the Appeals before the Division Bench was also on the basis of notification dated 03rd February, 1970 under section 4 of the said Act for the same public purpose. After considering the location of the villages and the location of various lands, the Division Bench divided the acquired lands in five categories depending upon the distance of the land from the highway and from zilla parishad road and fixed various rates of market value for the said categories. The decision of the Division Bench has been upheld by recent judgment of the Apex Court dated 06th March, 2006 in Civil Appeal No.1557 of 2006 in the Shantadevi Ruparel Vs. Special Land Acquisition Officer & Anr. In fact the Apex Court expressly directed that market value as awarded by the Division

Bench should be awarded to the lands which were subject matter of the Appeal before the Apex Court.

3. In my view, there is no reason why the decision of the Division Bench should not be followed in the present case. Evidence on record discloses that the acquired land is at a distance of 300 meters from the highway and therefore, it will fall in category II of the decision of the Division Bench. The rate awarded by the Division Bench for the said category is Rs.23/- per sq. meter. In the present case, the claim in Appeal is restricted to Rs.20/- per sq. meter. Hence, the Appellants are entitled to market value at the rate of Rs.20/- per sq. meter. The Advocate appearing for the Appellants pointed out that interest at the rate of 15 per cent per annum is not granted as required by section 28 of the said Act. The Appellants will be entitled to interest payable under section 28 of the said Act. Hence, I pass the following order:

(i) The Appeal is partly allowed.

(ii) The Appellants are entitled to compensation calculated at the market value of Rs.20/- per

sq. meter. In addition to market value, the Appellants will be entitled to statutory benefits under section 23(1-A), 23(2) and 28 of the Land Acquisition Act, 1894.

(iii) The Appellants will be entitled to proportionate costs throughout.

(iv) The Reference Court will calculate the amount of compensation payable to the Appellants within period of four months from the date of receipt of writ of this order.

JUDGE